



Practitioner's Docket No. 48457

**PATENT**

#13  
Ext. 3rd (mu)  
Elie  
10/10/02

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Wyatt, et al.

Application No.: 09/446,799

Group No.: 1648

Filed: May 10, 2001

Examiner: Li, B. Q.

For: GLYCOSYLATED MODIFIED PRIMATE LENTIVIRUS ENVELOPE  
POLYPEPTIDES

**RECEIVED**

OCT 04 2002

TECH CENTER 1600/2900

**RESTRICTION REQUIREMENT**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

In response to the Restriction Requirement dated April 24, 2002, a Petition for a Four Month Extension of Time and payment of fee is enclosed. Applicants elect Group I (claims 1 – 4, 6, and 14), directed to a modified gp120 polypeptide comprising an altered CD4 binding site. Applicants further elect as a polypeptide a gp120 polypeptide where the discontinuous epitope is a CD4 binding site (CD4bs), and the glycosylation sites are 197 and 301, with traverse.

**REMARKS**

Applicants have elected Group I in response to the Restriction Requirement. Applicants have further elected a gp120 polypeptide where the discontinuous epitope is a CD4 binding site (CD4bs), and the glycosylation sites are 197 and 301, with traverse.

10/02/2002 NM0HAMM1 00000013 09446799

01 FC:218

720.00 0P

B591761.1

Applicants traverse the requirement to elect a specific polypeptide, on the grounds that at most they should be subject to an election of species. All members within Group I are obviously in the same class and subclass. The MPEP provides *no justification* for creating what at most amounts to different species of modified gp120 comprising an altered CD4 binding site. The justification of the members having different structures and being burdensome to database searching is not a proper basis. Rather, this amounts to an unjustified burden and cost being placed upon applicants.

Furthermore, there is no basis for the restriction because the invention as claimed includes a modified gp120 polypeptide with alterations in *both* the CD4bs epitope *and* the CD4I epitope. Similarly, one preferred gp120 polypeptide has all four of the sugars removed from the four glycosylation sites, 197, 276, 301, and 386. Accordingly, there is **no scientific** basis for such a limitation as well as no legal basis for limiting the modification of the glycosylation sites to only two of the four sites, let alone forcing Applicants to limit the invention to only two of the glycosylation sites. This requirement is therefore completely arbitrary and should be removed.

In view of the foregoing, applicant respectfully submits that all claims are in condition for allowance. Early and favorable action is requested.

In the event that any additional fees are required, the PTO is authorized to charge our deposit account No. 50-0850.

Respectfully submitted,

Date: 9/24/02

  
Ronald I. Eisenstein  
(Reg. No.: 30,628)  
NIXON PEABODY LLP  
101 Federal Street  
Boston, MA 02110  
(617) 345-6054